

In re) Fair Hearing No. 20,349
)
Appeal of)

The petitioners appeal the decision of the Department for Children and Families, Health Access Eligibility Unit (HEAU) terminating their eligibility for Vermont Health Access Program (VHAP) benefits. The issue is whether the petitioners' income exceeds the program maximum.

1. The petitioners are a married couple with two children. Following a review of their eligibility the Department sent a notice dated April 27, 2006 terminating their VHAP.¹

2. There is no dispute that the petitioners' income includes wages they each earn that amount to a countable total of \$2,279 a month. The dispute in this matter centers on the amount of self-employment income the petitioners make from their garage business. The Department in its initial

¹ The petitioners' children were found eligible for Dr. Dynasaur benefits. The petitioners have continued to be eligible for VHAP during the pendency of this appeal.

decision determined that the petitioners' income from self-employment was an additional \$2,252 per month. Following the petitioners' appeal in this matter the Department agreed to review their income based on their recently filed 2005 income tax statements.

3. Using tax information provided by the petitioners, on October 5, 2006 the Department determined that the petitioners' net monthly income from self-employment was \$2,371. Inasmuch as the petitioners' combined income of \$4,470 (wages plus self-employment) exceeded the program maximum of \$3,092 for a family of four persons, the Department affirmed its decision that the petitioners were no longer eligible for VHAP. At a phone status conference held on October 17, 2006 the petitioners' attorney indicated that the petitioners did not dispute the factual basis of the Department's decision.

ORDER

The Department's decision is affirmed.

REASONS

Under the VHAP regulations, all earned income, except a \$90 disregard for each earner, is included as countable income for eligibility. Income from self-employment is

determined by deducting business expenses from gross receipts. The regulations specifically provide that tax returns and business records are "appropriate" means of determining income from self-employment. W.A.M. §§ 4001.81(a)-(e).

There is no dispute in this matter that as of the dates of their application and hearing the petitioners had countable income in excess of the maximum for eligibility under the VHAP program for a four-person family with children, which is \$3,092. P-2420 B. Thus, the Department's decision finding the petitioners ineligible for VHAP based on their reported income must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

#